

PATENT COOPERATION TREATY

TRANSLATION

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

Date of mailing **See form PCT/ISA/210**
(day/month/year)

Applicant's or agent's file reference pathape1127W		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/EP2007/000485	International filing date (day/month/year) 20.01.2007	Priority date (day/month/year) 16.03.2006	
International Patent Classification (IPC) or both national classification and IPC B65G17/20, B65G17/38, B65G47/51			
Applicant KRONES AG			

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

² For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Date of completion of this opinion	Authorized officer
Facsimile No.		Telephone No.

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Box No. I	Basis of this opinion
1	<p>With regard to the language, this opinion has been established on the basis of:</p> <p><input checked="" type="checkbox"/> the international application in the language in which it was filed</p> <p><input type="checkbox"/> the translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rule 12.3(a) and 23.1(b)).</p> <p>2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> on paper</p> <p><input type="checkbox"/> in electronic form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed</p> <p><input type="checkbox"/> filed together with the international application in electronic form</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search</p> <p>3. <input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</p> <p>4. Additional comments:</p>

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>2, 6-10</u>	YES
	Claims	<u>1, 3-5, 11-12</u>	NO
Inventive step (IS)	Claims	<u>2, 6-10</u>	YES
	Claims	<u></u>	NO
Industrial applicability (IA)	Claims	<u>1-13</u>	YES
	Claims	<u></u>	NO
2. Citations and explanations:			
1 Reference is made to the following documents:			
D1: US 1 810 419 A (FRANCIS EARLE V) 16 June 1931 (1931-06-16)			
D2: US 5 022 609 A (CRANSTON ROBERT J [US]) 11 June 1991 (1991-06-11)			
D3: WO 2005/073113 A (KRONES AG [DE]; KRONSEDER VOLKER [DE]; HUMELE HEINZ [DE]; HAUSLADEN WO) 11 August 2005 (2005-08-11) cited in the application			
2 INDEPENDENT CLAIMS 1 AND 11			
The present application fails to comply with the requirements of PCT Article 33(1) because the subject matter of claims 1 and 11 is not novel (PCT Article 33(2)).			
2.1 D1 is considered to be the closest prior art to the subject matter of claim 1. It describes (the references between parentheses apply to this document):			

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a conveying means having running rollers (figure 1: 18), which can be supported on a guide (figure 2: 2), wherein at least one running roller (figure 1: 18) is mounted on a roller lever (figure 1: 15), which can be pivoted between a first and a second position with the aid of a pivoting mechanism and can be locked in a position, wherein the pivoting mechanism is equipped with a toggle lever that is connected to an actuating element (figure 1: 13), wherein the toggle lever comprises a first (figure 1: 21, left) and a second (figure 1: 21, right) lever element that are connected to one another via a joint (figure 1: 20).

The subject matter of claim 1 is therefore not novel.

- 2.2 Claim 1 is also so broadly formulated that D2 also contains the features of this claim. D2 describes (the references between parentheses apply to this document):

a conveying means with running rollers (figure 1:, 26), which can be supported on a guide (the runway), wherein at least one running roller (figure 1: 26) is mounted on a roller lever which can be pivoted between a first (figure 1: retracted position) position and a second (figure 1: extended position) position with the aid of a pivoting mechanism (figure 1: 60) and can be locked in a position, wherein the pivoting mechanism is equipped with a toggle lever, which

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is connected to an actuating element (figure 2: 106), wherein the toggle lever comprises a first (figure 2: 62) and a second (figure 2: 64) lever element that are connected to one another via a joint (figure 2: 80).

- 2.3 D1 is considered to be the closest prior art to the subject matter of claim 11. It describes (the references between parentheses apply to this document):

chain link for a conveying chain, having at least one running roller (figure 1: 18), which is mounted on a replaceable roller lever (figure 1: 15), having a pivoting mechanism comprising a toggle lever (figure 1: 21), wherein the toggle lever has a first (figure 1: 21, left) and a second (figure 1: 21, right) lever element that are connected to one another via a joint (figure 1: 22), wherein the first lever element (figure 1: 21, left) is in connection with the roller lever (figure 1: 15, left, via element 13) and the second lever element (figure 1: 21, right) is in connection with an actuating element (figure 1: 13).

The subject matter of claim 11 is therefore not novel.

3 DEPENDENT CLAIMS 3-5 AND 12

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Claims 3-5 and 12 do not contain any features that, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step. The additional features of claims 3-5 are given in D2 (figure 2: 90), whereas D1 discloses at least the additional features of claim 12 (figure 4).

4 DEPENDENT CLAIMS 2, 6-10 AND 13

The combination of features contained in the dependent claims is neither known nor obvious from the available prior art, for the following reasons:

The features of claims 2, 6-10 and 13 are all disclosed in D3, although the pivoting of the roller lever is not brought about by a toggle lever here, but rather by steering forks (figure 19: 83) or locking catches (figure 24: 92).

The introduction of the toggle lever enables better control of the pivoting as compared with the steering forks or the catches. A combination of the features of D3 and D1 is non-obvious, since the locking catch of D3 cannot be replaced with a toggle lever as per D1 without an inventive step being involved.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Although claims 1 and 11 were drafted as separate independent claims, it appears that their subject matter is the same and that the only difference apparently lies in the varying definitions of the subject matter for which protection is sought. Consequently, these claims are not concise and they fail to comply with the requirement of PCT Article 6.

Claim 12 contains all the features of claim 1 and is therefore not correctly formulated as being dependent on the latter (PCT Rule 6.4).